

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION



DAVID A. STEBBINS

PLAINTIFF

VS

CASE NO. 1:14-cv-00961

EDUCAP, INC.

DEFENDANT

**REPLY TO [037] RESPONSE TO [031] FIRST MOTION FOR SANCTIONS**

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following Reply to the Defendant's Response to the the Plaintiff's First Motion for Sanctions.

**Defendant's "safe harbor" argument is without merit pursuant to Fed.R.Civ.P. 61.**

1. Federal Rule of Civil Procedure 61 states, in pertinent part, "At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party's substantial rights."
2. This means that a nomovant cannot have a motion stricken for a technicality that is collateral to the merits unless they can demonstrate that the technicality had some adverse material impact on the nonmovant's rights.
3. By the Defendant's own admission, they did not believe that their motion for summary judgment was in violation of Fed.R.Civ.P. 11 in the first place. No matter how much notice Plaintiff had given them, they would not have corrected their errors. This motion would have been filed, anyway.
4. Therefore, the Defendant lacks standing to raise this "safe harbor" argument, seeing as how they have themselves admitted that it is simply invoking a technicality, just for the sake of invoking a technicality.

**Bad faith is not required.**

5. The Defendant argues that Plaintiff has alleged bad faith, and that there is no proof to support this claim.

6. Plaintiff has already explained this. “Bad faith” is not required! Plaintiff has already produced the 4<sup>th</sup> Circuit precedent of *Cabell v. Petty*. “Inexperience, incompetence, willfulness or deliberate choice may all contribute to a violation.” See ¶ 7 of Plaintiff’s Motion.

**There is, indeed, evidence of bad faith.**

7. It is true that Plaintiff has alleged bad faith, but is not true that he has no proof for it. The Defendant, claiming lack of evidence of bad faith, is just as much a violation of Fed.R.Civ.P. 11(b)(3) as their previous allegation that Plaintiff did not, in ¶¶ 93-95 of his Complaint, request injunctive relief.

8. There are some actions that are inherently malicious. These actions are such things that the actors performance cannot possibly argue that they were a “accident,” or that they “meant nothing by it.” Examples of these “inherently malicious acts” include, but are not limited to ...

(a) Walking into a convenience store wearing a ski mask, pointing a gun at the cashier, and demanding money.

(b) Throwing rocks at someone's window while yelling “Bitch, you'd better stay inside, because I'll blow your god damned brains out if you step outside!”

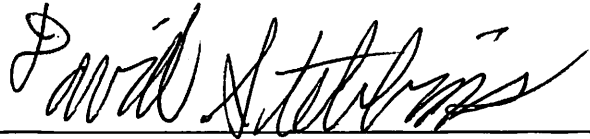
(c) Using a tire iron to bash a hole in a store's window during the night, then entering the store with a 40-gallon trash bag, taking some things off the shelves, putting those things in the trash bag, and then leaving with the trash bag in hand.

9. The Defendant has made arguments, in their motion for summary judgment, so patently frivolous that bad faith is their only excuse.

10. The Defendant claims that their arguments were in compliance with Fed.R.Civ.P. 11, but they have offered nothing to refute the thorough and detailed explanations that Plaintiff has offered. They are simply stating "Our arguments are in compliance with Rule 11 because ... screw you! That's why!"

11. Because the Defendant has offered nothing to refute Plaintiff's case law citations and logical arguments to support his accusations of Rule 11 violations, Plaintiff's motion should be taken as unopposed.

12. Wherefore, premises considered, Plaintiff respectfully prays that the Motion for Sanctions be granted. So requested on this, the 3<sup>rd</sup> day of December, 2014.

A handwritten signature in black ink, appearing to read "David Stebbins", is written over a horizontal line.

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